

MEMORANDUM FOR: Members of Industry Sector and Functional Advisory Committees
for Trade Policy Matters

FROM: Christina Sevilla
Acting Assistant USTR for Intergovernmental Affairs
and Public Liaison
Office of the U.S. Trade Representative

Ingrid V. Mitchem
Director, Industry Consultations Program (ICP)
U.S. Department of Commerce

SUBJECT: Annual Super 301 and Title VII Reports to Congress

We would like to advise you of the attached Federal Register notice seeking public comment for consideration in the preparation of this year=s "Super 301" report to Congress of U.S. trade expansion priorities and priority foreign country practices, as well as this year=s "Title VII" report on foreign countries engaging in discriminatory government procurement practices. The deadline for response provided in the notice is March 26, 2001; however, USTR will continue to accept input from ISAC/IFAC members after this date. If you wish to respond, please do so as quickly as possible in order to ensure that your comments can be given full consideration.

The "Super 301" provisions that were re-instituted by Executive Order 13116 of March 31, 1999 (for a three-year period), require USTR no later than April 30, to review United States trade expansion priorities and identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent.

The "Title VII" provisions of the Executive Order requires the identification of countries that are not in compliance with their obligations under the WTO Government Procurement Agreement, NAFTA government procurement provisions or other agreements relating to government procurement, and countries that maintain a significant and persistent pattern or practice of discrimination in the government procurement of U.S. products or services that results in identifiable harm to U.S. businesses and whose products or services are acquired in significant amounts by the United States Government.

If you have any additional questions regarding this matter, please contact William Busis (395- 3150) or Melida Hodgson (395-3582) of USTR=s Office of General Council, or Neal Wavra (482-5477) or David Weems (482-5089) of the Commerce Department=s Trade Compliance Center.

Attachment

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[Federal Register: February 28, 2001 (Volume 66, Number 40)]

[Notices]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Priority Foreign Country Practices and Foreign

Countries Engaging in Discriminatory Procurement Practices; Request for

Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public.

SUMMARY: Executive Order 13116 of March 31, 1999 requires the United States Trade Representative ("USTR"), by April 30, 2001, to conduct a review of U.S. trade expansion priorities and to identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports. This Executive Order also requires the USTR to identify foreign countries engaging in discriminatory government procurement practices. Pursuant to this Executive Order, the USTR must submit to the congressional committees of jurisdiction a report on priority foreign country practices (the "Super 301" report) and a report on countries engaging in discriminatory government procurement practices (the "Title VII" report) and publish these reports in the Federal Register. USTR is requesting written submissions from the public concerning practices that should be considered by the USTR for these purposes.

DATES: Submissions must be received by 12:00 noon on March 26, 2001.

ADDRESSES: Office of the U.S. Trade Representative, 600 17th Street, NW, Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: Questions concerning the filing of submissions should be directed to Sybia Harrison, Staff Assistant to Section 301 Committee, (202) 395-3432; legal questions regarding Executive Order 13116 and Super 301 should be addressed to Demetrios Marantis, Associate General Counsel, (202) 395-3150; and legal questions regarding Title VII should be addressed to Melida Hodgson, Associate General Counsel, (202) 395-3582.

SUPPLEMENTARY INFORMATION: Pursuant to Part I of Executive Order 13116 of March 31, 1999 (64 F.R. 1633), the USTR is required, no later than April 30, to review United States trade expansion priorities and identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent. Part II of Executive Order 13116 requires the USTR, no later than April 30, to review and identify other countries' compliance with the Agreement on Government Procurement ("GPA") and other government procurement agreement obligations, or otherwise maintain, in government procurement, a significant and persistent practice of discrimination against U.S. products or services which results in identifiable harm to United States businesses and whose products or services are acquired in significant amounts by the United States Government.

The USTR must submit to the congressional committees of jurisdiction a report on the priority foreign country practices identified under Part I of the Executive Order (the ``Super 301" report). The USTR also may describe in this report foreign country practices that may warrant identification in the future or that were not identified because they are being addressed by provisions under U.S. trade law, existing bilateral trade agreements, or in trade negotiations, and progress is being made toward their elimination. The USTR must also submit to the congressional committees of jurisdiction a report on countries engaging in discriminatory government procurement practices, identified under Part II of the Executive Order (the ``Title VII" report) and publish the reports in the Federal Register.

Executive Order 13116 also requires the USTR to initiate investigations under section 302(b)(1) of the Trade Act of 1974 as amended (19 U.S.C. 2412 (b)(1)), no later than 90 days after submission of the reports, with respect to any of the identified practices that have not been satisfactorily resolved in the interim.

Requirements for Submissions

The USTR invites submissions concerning priority foreign country practices that should be considered for identification in the Super 301 report in accordance with the criteria established under Executive Order 13116. The USTR also invites submissions concerning countries engaging in discriminatory government procurement practices that should be considered for identification in the Title VII report in accordance with the criteria established under Executive Order 13116. If the practice is also the subject of comments submitted in connection with the 2001 National Trade Estimate Report on Foreign Trade Barriers

("2001 NTE Report"), the present submission should identify the related comments in the NTE public docket and include any additional pertinent information, including information explaining why the practice rises to the level of a "priority foreign country practice" within the meaning of Executive Order 13116. If the practice was not the subject of comments submitted in connection with the 2001 NTE Report, the submission should: (1) Include information on the nature and significance of the practice; (2) identify the United States product, service, intellectual property right, or foreign direct investment matter which is affected by the practice; and (3) provide any other information considered relevant. Such information may include information on the relevant trade and government procurement agreements to which a foreign country is a party, its compliance with those agreements, and any other information related to the factors set forth in Parts I and II of Executive Order 13116 for identification of priority foreign country practices and countries that engage in discriminatory government procurement practices.

Interested persons must provide twenty copies of any submission, in English, to Sybia Harrison, Staff Assistant to Section 301 Committee, Office of the United States Trade Representative, by noon on March 26, 2001. Because submissions will be placed in a public file, open to public inspection at USTR, business-confidential information should not be submitted. Inspection is only by

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appointment with the staff of the USTR Public Reading Room and can be arranged by calling Brenda Webb at (202) 395-6186. The Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1 p.m. to 4

p.m., Monday through Friday.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

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